

PUBLIC HEARING AND REGULAR MEETING
City of Hampton Wetlands Board
City Council Chambers, 8th floor, City Hall
April 22, 2003

PRESENT: Chairman William M. Snider, II, Vice-Chairman William L. Wood, and Board Members Lillian Bellamy and Gayle Cozzens.

ITEM I. CALL TO ORDER

and

ITEM II. ROLL CALL.

Chairman Snider called the meeting to order at 5:00 p.m. and introduced each of the Board Members present; Board Member Thomas Morris was absent. Staff persons in attendance were Staff Coordinator Brian Ballard, Ed Haughton, and Sharon McSmith of the Hampton Planning Department, and Mark Eversole of the Virginia Marine Resources Commission (VMRC).

Chairman Snider explained to the public the process of the meeting, stating that it takes three affirmative votes to approve an application; if an application is denied, the applicant has ten days to appeal the Board's decision to VMRC.

Both applicants chose to go forward with the public hearing on their respective applications.

ITEM III. CONSIDERATION OF MINUTES.

There being no additions or corrections, a motion was made by Vice-Chairman Wood and seconded by Board Member Bellamy to approve the minutes of the March 25, 2003 Wetlands Board meeting. A voice vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Wood, Snider
NAYS:	None
ABST:	None
ABSENT:	Morris

ITEM IV. JOINT APPLICATIONS (PUBLIC HEARING ITEMS).

Chairman Snider read the public hearing notice on the next agenda item:

Joint Application No. 03-0189 by Langley Air Force Base to construct an 80± linear foot riprap structure by the proposed pump house on the shoreline of Langley AFB on the Southwest Branch of Back River, a tributary to the Chesapeake Bay.

Mr. Brian Ballard, City Planner, presented the staff report on the subject application, a copy of which is attached hereto and made a part hereof. Staff recommended approval of the application subject to four conditions.

In response to a question by Vice-Chairman Wood concerning how much of the existing concrete and rubble will be taken out, Mr. Jim Spady, engineer at A.C. Matter & Matter, stated the portion intended to be removed is from the grass line to mean low water; the existing debris will be removed and disposed of on Langley Air Force Base property.

After discussion a motion was made by Vice-Chairman Wood and seconded by Board Member Cozzens to approve Joint Permit Application No. 03-0189 subject to the following four conditions:

1. The approved, staked alignment of the proposed riprap revetment shall remain in place until installation of the revetment.
2. The riprap revetment shall be placed on filter cloth at a slope as shown on the application drawings and shall not extend channel-ward of the staked toe.
3. Should construction result in any disturbance to the existing Chesapeake Bay Resource Protection buffer, the buffer shall be returned to a condition substantially similar to its pre-permit condition.
4. Maintenance of this structure shall not exceed the limits of this permit and shall be limited to materials stipulated in this permit, unless otherwise approved by the Staff Coordinator. The Wetlands Board shall be notified prior to any maintenance activity.

A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Wood, Snider
NAYS:	None
ABST:	None
ABSENT:	Morris

Chairman Snider read the public hearing notice on the next agenda item:

Joint Application No. 03-0558 by Bailey Talbot to construct a 71± linear foot timber bulkhead on the shoreline of the property at 11 Melissa Court, on Harris River, a tributary to Back River and the Chesapeake Bay.

Mr. Ballard presented the staff report on the subject application, a copy of which is attached hereto and made a part hereof. Staff recommended approval subject to five conditions.

In response to a question by Board Member Cozzens concerning whether the marsh grass will be disturbed or if the bulkhead will be placed behind the marsh grass, Chairman Snider stated the bulkhead will tie into the existing bulkhead on the east side.

Mr. Ballard stated that every shoreline project analysis should consider all stabilization alternatives such as the planting of natural vegetation or constructing a riprap revetment.

Staff feels that neither of these alternatives is necessarily reasonable or equitable solutions when considering the particulars of this case.

Vice-Chairman Wood agreed that the Wetlands Board does like to have alternatives to hardening the shoreline with a bulkhead. He also agreed that a bulkhead was the best solution for this shoreline because of the possible impact of constructing a riprap revetment to the fringe vegetation, although riprap does allow potential habitat for aquatic species.

In response to questions by Chairman Snider concerning the subject bulkhead tying into an existing bulkhead on the right and into a new bulkhead on the Rivera side, and whether the subject bulkhead will end in a straight line or toe in, Mr. Ballard stated we do not know if the “new” bulkhead will be built. Notes on the drawing state the return wall is optional—if the neighbor builds his bulkhead.

Chairman Snider stated this does not make sense; the return wall is needed more if they do not build the bulkhead. Mr. Ballard responded that the drawing needs to be revised to say they will build a return wall if the neighbor does *not* build a bulkhead.

Chairman Snider stated that experience tells us that if you run a straight bulkhead without a return wall and it does not tie in to anything, then you will create an erosion problem.

Mr. Robert Woollard, agent for the applicant, stated at the time the drawing was made the hope was that a bulkhead would be built on the Rivera property at the same time. Mr. Rivera is stationed in England and will be returning in July; perhaps the Board will see an application in July for the bulkhead.

In response to Chairman Snider’s question concerning a return wall, Mr. Woollard stated yes, there will be a return wall since the Rivera’s did not opt to build their bulkhead.

Chairman Snider recommended we include a condition that approval is also subject to a return wall being attached on the west/unsecured side of the bulkhead.

After discussion a motion was made by Board Member Cozzens and seconded by Board Member Bellamy to approve Joint Permit Application No. 03-0558 subject to the following six conditions:

1. The approved, staked alignment of the proposed bulkhead shall remain in place until installation of the bulkhead.
2. Filter cloth shall be placed behind all sections of the bulkhead.
3. A return wall shall be built on the western and currently unsecured edge of the bulkhead.
4. A silt fence shall be placed along the landward edge of the bulkhead until the fill area has been stabilized with vegetation.
5. Should construction result in any disturbance to the existing Chesapeake Bay Resource Protection buffer, the buffer shall be returned to a condition substantially similar to its pre-permit condition.

6. Maintenance of this structure shall not exceed the limits of this permit and shall be limited to materials stipulated in this permit, unless otherwise approved by the staff Coordinator. The Wetlands Board shall be notified prior to any maintenance activity.

A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Wood, Snider
NAYS:	None
ABST:	None
ABSENT:	Morris

Wallace's Marina

Mr. Ballard stated a request has been made by Wallace's Marina to extend their application, which was originally approved by the Board in April of 2001, to construct a bulkhead along their shoreline on Dandy Point Road. They received an extension on March 22, 2002 to April 24, 2003. They are requesting an extension for another year subject to the original four conditions. They stated they had a tough winter and cannot do the work in the summer because they are very busy, though they are making progress. They are doing the work themselves and it is approximately 80% done. Staff sees no reason not to grant their request.

A motion was made by Vice-Chairman Wood and seconded by Board Member Cozzens to approve the extension of the Wallace Marina application for a bulkhead along their shoreline on Dandy Point Road, subject to the four original conditions, to April 24, 2004.

A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Wood, Snider
NAYS:	None
ABST:	None
ABSENT:	Morris

ITEM V. STAFF REPORT.

Wetlands Violation Update – Bluewater Yacht

Mr. Ballard stated that Bluewater Yacht has complied with their permit; he showed the Board a picture of the violation area in its pre-permit condition and in its current condition.

Chairman Snider stated that is good news, and that the violation area now looks like it previously looked.

Wetlands Violation Update - Hampton University

Mr. Ballard stated that since the last Board meeting he has met on site with Hampton University's consultant, MSA, P.C., and VIMS to determine if the submitted planting plan

and site is viable. Mr. Ballard showed the Board pictures that reflect their designated planting of a five foot strip of Spartina on the shoreline of the Hampton River; however, Spartina likes to be exposed at low water, and the site does not have enough exposure because of its elevation, and the Spartina will not be protected from the boat traffic, etc. The group visited another site further along the shoreline, towards the protected cove area; the toe of that riprap project was never covered up so there is a strip of standing water at low tide which is preventing Spartina growth. In the cove where they were originally going to plant the 8,000 feet of Spartina, there are patches of Spartina, but in order to correct the elevation for the Spartina to be healthy, they would have to remove debris and they would have to add fill to cover in the gap there as well as in front of the existing Spartina which would require a Corps permit. Even though it is a mitigation condition of the Wetlands Board permit, if they are going to fill they would be required to obtain a Corps permit. We will meet again on site with the Corps in the next couple of weeks to discuss all of the issues. If they would agree to the fill, Mr. Ballard believes it would be a successful site for mitigation as well as being an aesthetic benefit to this highly visible area. He stated we should require a monitoring plan to insure that several years down the road the plantings remain successful. The window of opportunity for planting is narrowing, but if keep moving forward they may be able to plant this year.

In response to questions by Chairman Snider concerning how long it would take to process a Corps application, Mr. Ballard stated he does not yet have an answer.

Chairman Snider stated he appreciated Mr. Ballard's tenacity in pursuing the violation; they obviously did not do what they were supposed to do, but he feels we are on the right track.

In response to questions by Chairman Snider concerning the possibility of filling in the trench to allow the existing Spartina to rejuvenate itself naturally, Mr. Ballard stated we are leaving that to the University--it is their responsibility. Unless the Corps determines the fill should have been done as part of the existing permit, a Corps permit would be needed to fill in the toe.

In response to Chairman Snider's statement that it should have been filled because they dug a trench to put the toe of the riprap in and they didn't refill the trench to a level even with the existing bottom, Mr. Ballard responded that we can add it to the list of violations.

Chairman Snider stated they just need to do it right and we appreciate Mr. Ballard's tenacity in pursuing violations.

Vice-Chairman Wood stated there are all kinds of rubble that was supposed to be removed. He stated he is concerned that there was a group of people looking at the project when it was originally proposed who were to agree on how the project should be done, and now we are getting different feedback; there are two different mindsets looking at the project—VIMS and SEAS originally looked at the site but not the Corps.

In response to a question by Vice-Chairman Wood concerning the square footage eliminated on the traffic edge, Mr. Ballard stated there would be no net loss because the vegetation planned for the traffic edge will be planted in a more protected location.

Enforcement Matrix

Mr. Ballard stated he is still working with the City Attorney and the Codes Compliance Office on the enforcement matrix and will get his feedback to the Board in a work session as soon as possible.

Chairman Snider encouraged Mr. Ballard to keep moving forward.

ITEM VII. MATTERS BY THE BOARD MEMBERS.

There were no items presented by the Board.

ITEM VIII. MATTERS BY THE PUBLIC.

Mr. Gene Cone, 1341 Coral Place, thanked Mr. Ballard for the outstanding job done on his slide presentation, stating it was very professional and he should be commended.

Mr. Cone stated the City of Hampton is ruining wetlands vegetation, and his lawn. Nobody has come out and tried to fix the problem. He is worried about a tree falling over--that is a City of Hampton problem; another pine tree is ready to go. The City of Hampton is killing wetlands vegetation.

ITEM IX. ADJOURNMENT.

The meeting was adjourned at 5:34 p.m.

Respectfully submitted,

Brian P. Ballard, City Planner
Secretary to the Board

APPROVED BY:

William M. Snider, II
Chairman, Hampton Wetlands Board